



**UNITED STATES DEPARTMENT OF COMMERCE**  
**United States Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

*g*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/483,831      01/17/00      STRACKE      M      2026-4149US4

┌

HM22/0824

└

MORGAN & FINNEGAN, L.L.P.  
345 PARK AVENUE  
NEW YORK, NY 10154-0053

EXAMINER

ROBINSON, H

ART UNIT	PAPER NUMBER
----------	--------------

1653

DATE MAILED:

08/24/01

*12*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/483,831

Applicant(s)

STRACKE ET AL.

Examiner

Hope A. Robinson

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23,24,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 23,24,26 and 27 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 11, 12.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 1653

### **DETAILED ACTION**

1. Applicant's response to the Office Action mailed February 14, 2001 in Paper No. 11 on May 14, 2001 is acknowledged.
2. Claims 20-22 and 25 have been canceled. Claims 23 and 26 have been amended. Claims 23, 24, 26 and 27 are pending.
3. This application is in condition for allowance except for the following formal matters:

#### ***Drawings***

4. Filing of corrected drawings based on the Draftperson's review (see Paper No. 7).

#### ***Oath/Declaration***

5. The Oath/Declaration is objected to because the priority document information needs to be updated. For example application 07/822, 042 is now a patent and application 09/249, 182 has been abandoned, therefore, both applications are no longer pending.

A substitute Oath/Declaration is required.

Art Unit: 1653

*Specification*

6. The specification is objected to because of the following informalities:

a) The specification is objected to because on page 1, lines 6-7 an improper sentence structure appears where it reads “ the present invention relates, in general, **to a motility stimulating** and compositions comprising the same”.

Correction is required.

b) In addition, the specification is objected to because the paper copy and the CRF copy of the sequence listing indicate that SEQ ID NO: 69 has 917 amino acid residues (actual count), however, the paper copy and CRF (computer readable form) indicate that there is only 915 amino acid residues (SEQ ID NO: 69, item 2(i)(A)).

Compliance with the sequence rules is required (see also the attached Raw Sequence Listing, note the additional errors).

Prosecution on the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Art Unit: 1653

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope Robinson whose telephone number is (703) 308-6231. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:30 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S.F. Low, Ph.D., can be reached at (703) 308-2923.

Any inquiries of a general nature relating to this application should be directed to the Group Receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted by facsimile transmission. The official fax phone number for Technology Center 1600 is (703) 308-4242. Please affix the examiner's name on a cover sheet attached to your communication should you choose to fax your response. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG (November 15, 1989).

Hope Robinson, MS 

Patent Examiner

  
CHRISTOPHER S. F. LOW  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600